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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re JEREMY G. et al., Persons Coming
Under the Juvenile Court Law.

ORANGE COUNTY SOCIAL SERVICES
AGENCY,

Plaintiff and Respondent,

v.

E.G.,

Defendant and Appellant.

G040406, G040532

(Super. Ct. Nos. DP015610,
DP015611)

O P I N I O N

Appeal from orders of the Superior Court of Orange County, Caryl Lee,
Judge. Affirmed.

William D. Caldwell, under appointment by the Court of Appeal, for
Defendant and Appellant.

Benjamin P. de Mayo, County Counsel, Karen L. Christensen and Aurelio
Torre, Deputy County Counsel, for Plaintiff and Respondent.

No appearance for the Minors.

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E.G. (the mother) appeals from the court's rulings and orders at the six-month review. She argues the court lacked substantial evidence to conclude that her son should not be returned and that she had received reasonable services. We find these arguments lack merit and affirm. She also asks this court to review rulings the juvenile court made with regard to one of her children, despite the termination of dependency. We find any issues regarding this child to be moot.

I

FACTS

Facts from the Prior Proceeding

We restate, in relevant part, the facts from our prior unpublished opinion in this case. (*In re Jeremy G.* (Apr. 29, 2008, G039411) [nonpub. opn.].)

“Orange County Social Services (SSA) filed a petition in the juvenile court citing Welfare and Institutions Code section 300. (Unless otherwise indicated, all statutory references are to the Welfare and Institutions Code.) The alleged facts supporting the allegations under section 300, subdivision (a) of the interlineated pleading in the record are: ‘a-1. The child Joseph reported that, [o]n or about July 2, 2007, the child, Joseph, was kicked by his mother, [E.G.], resulting in an approximate four to five inch bruise on the child’s right thigh, thereby causing the child to suffer physical pain. The mother denies this incident occurred. [¶] a-2. The child Joseph reported [o]n numerous unspecified dates, the children’s mother struck the child, Joseph, with various household objects, to include, but not limited to, coat hangers, shoes and a belt. The mother denies ever striking the child with objects.’

“The alleged facts supporting the allegations under section 300, subdivision (b) of the interlineated pleading in the record are: ‘b-1. The child Joseph reported that [o]n or about July 2, 2007, the child Joseph, was kicked by his mother, [E.G.], resulting in an approximate four to five inch bruise on the child’s right thigh, thereby causing the child to suffer physical pain. The mother denies this incident occurred.

[¶] b-2. The child Joseph reports that [o]n numerous unspecified dates, the children's mother struck the child, Joseph, with various household objects, to include, but not limited to, coat hangers, shoes and a belt. The mother denies ever striking the child with objects. [¶] b-4. The child Joseph reported that [o]n numerous occasions the children's mother has made derogatory statements to the children to include, but not limited to, accusing the children of being [profanity] jerks like their father. [¶] b-5. The children's father has a history of substance abuse since at least 1999 and was convicted on April 12, 2004, for Vehicle Code 23152(A)—Driving Under the Influence of Drugs/Alcohol. [¶] b-6. The children's father, William [G.], reasonably should have known of the physical abuse and neglect of the children by their mother.'

"The court received SSA's reports into evidence. The current matter is the fifth time there has been a child abuse referral involving the family. There were 14 prior calls regarding the family resulting in reports being taken.

"The first substantiated referral was in 1999. At that time, the records document that Joseph and his older brother were exposed to ongoing domestic violence between their parents. The next referral was in 2006. While it was unsubstantiated at the time, Joseph's complaints then are similar to those involved in the current situation. He described ongoing physical abuse by the mother. He said she hit him with household objects, such as coat hangers, shoes and a belt.

"Jeremy, 15, has spina bifida and is disabled from the waist down. He uses a wheelchair but can go short distances with a walker. During the investigation of the 2006 referral, Joseph said the mother struck Jeremy when Jeremy wanted to call the father. 'The mother "blew up and pulled him from his wheelchair, threw him on the floor and started striking him repeatedly, resulting in marks on his neck, face and arms.'"

"The current incident was reported on July 5, 2007. The report, prepared by a police officer from Brea Police Department, states: 'On 07-05-07, at approximately 1835 hours I was dispatched to a radio call regarding a welfare check The

comments advised that a 13 year old (Joseph) and 15 year old (Jeremy) were left at home alone. In addition the comments advised that Joseph reported that mom ([E.]) had kicked him leaving a bruise on his thigh. [¶] Upon arrival I was met at the door by [E.G.]. I advised her that her ex-husband had called the police regarding a welfare check. I requested to see her children (Joseph and Jeremy). Joseph came to the door and asked to speak to me in private, I took Joseph outside and conducted an interview. During the course of the interview Joseph stated that on 07-02-07, at approximately 1700 hours his mother kicked him in the right leg. Joseph then showed me his right thigh. I observed a 4"-5" yellow/blue bruise on his upper rear right thigh (for further details refer to Joseph's statement). [¶] [¶] Joseph stated that on 07-02-07, at approximately 1630 hours he arrived home from the Boys and Girls Club (Placentia/Crowther). At approximately 1700 hours his mother ([E.]) began making derogatory comments about his father (William). Joseph stated he became upset at the comments and began defending his father. Joseph stated this enraged his mother. As a result, [E.], kicked him in the right leg with her foot. Joseph stated that he felt pain as a result. Joseph stated that as a result of being kicked a large bruise formed on his right rear thigh.'

"In its ruling, the juvenile court stated: 'And as to Joseph, the court finds that reasonable efforts were made to prevent or eliminate the need for removal of the child from home. [¶] By clear and convincing evidence, the court finds that 361(c)(1) applies and that vesting custody in parents, this is as to Joseph, would be detrimental to the child and vesting custody in the agency is required to serve the child's best interest. Welfare of the child requires that custody be taken from parents and vested in the agency for suitable placement. [¶] As to Jeremy, the court finds by clear and convincing evidence that 361(c)(1) applies and that vesting custody in father would be detrimental to the child and vesting custody in mother is required to serve the child's best interest. Welfare of the child requires that custody be taken from father and remain vested with mother under agency's supervision.'

“The court ordered Joseph, age 13, detained by SSA and found ‘that there is a substantial danger to the physical health of minor and there are no reasonable means by which the minor’s physical or emotional health may be protected without removing the minor from the parent’s physical custody.’ Jeremy was released to the mother.

“The mother filed her own notice of appeal. In it she states: ‘I’m appealing the outcome of the last hearing on August 22, 2007. I believe I wasn’t explain correctly what a “no contest plea” meant, and after doing research after the hearing took place, I would like a jury to hear all the evidence in order for me to clear my name on all charges.’ Now represented by counsel, she argues in her appellate brief that the juvenile court’s jurisdictional findings and orders must be reversed because ‘substantial evidence does not support the court’s findings that the children are at risk as described in section 300, subdivisions (a) and/or (b).’”

We ultimately upheld the juvenile court’s decision concerning jurisdiction and disposition.

Subsequent Proceedings

Because Jeremy’s dependency proceedings were terminated in September 2008, the following summary focuses primarily on Joseph.¹ Jeremy continued to live with the mother in Orange County, while Joseph lived with his grandparents in San Diego. Visitation between Joseph and the mother resumed in October 2007 and was extended to include overnight visits in December. These visits went well.

As of early February 2008 the time of the scheduled six-month review, the mother’s counselor reported good progress in her therapy and her relationship with Joseph. She continued to deny any physical abuse, and the counselor commented that she did not view the mother as presently abusive. The mother had also begun a parenting

¹ Respondent’s request for judicial notice of the stipulation and minute order pertaining to Jeremy are granted, pursuant to Evidence Code sections 452 and 459.

class. The social worker recommended continuing reunification efforts for Joseph and supervision of Jeremy while in the mother's care.

By late February, the mother had completed her parenting education course with positive comments from the instructor. Her therapist opined that the mother had a better understanding of her children's needs. The mother's therapist was retiring, and the mother refused the social worker's offer of another therapy referral, adamantly denying that she had done anything to Joseph. The social worker nonetheless felt that both children appeared bonded to the mother.

As of late March, the mother continued to deny that any abuse had occurred. Joseph, meanwhile, had twice told the social worker that he did not want to live with his mother. He stated he had forgiven her, but did not feel comfortable living with her, and was concerned that future incidents would happen if he lived with her. He felt more comfortable living with his grandparents and/or his father, William. The father, for his part, had attended several parenting classes and a domestic violence course.

At the six-month review, the mother continued to deny any physical abuse or derogatory statements toward Joseph. She denied anger problems and that her actions had led to Joseph's removal from her custody. She believed that Joseph felt similarly, despite his statements that he did not want to return to her care. The mother also testified that she had not requested joint counseling for herself and Joseph.

The social worker testified that she did not attempt joint therapy for the mother and Joseph because of the logistical difficulties, given the distance between their residences and Joseph's busy schedule. She felt that visitation was more important. The social worker also felt that Joseph did not need therapy, based on his stated forgiveness of the mother, and his desire to turn to his grandparents rather than therapy.

The social worker felt that the key detriment to Joseph resulted from the mother's unwillingness to take responsibility for the past physical abuse and her

uncertain ability to care for Joseph's emotional needs. Given the mother's denial, she feared continued abuse.

Joseph's testimony mirrored his earlier statements to the social worker. While he had forgiven the mother for the past abuse, he was uncertain if further abuse would occur if he lived with her, and did not feel comfortable doing so. He would not feel safe in her care. He felt that the mother had "no sympathy" for him and that he was "emotionally on a roller coaster."

After argument from counsel, the court found the mother had been provided reasonable reunification services. The court also found Joseph "poised" and "articulate" and mature with regard to his statements about emotional abuse. The court found Joseph's statements regarding physical abuse credible, and was troubled by the disparity between the mother and Joseph on this subject. Based on the risks to Joseph, the court continued reunification services and scheduled a 12-month review for July 2007. The mother now appeals.

II

DISCUSSION

Substantial Risk of Detriment

"At the review hearing held six months after the initial dispositional hearing, the court shall order the return of the child to the physical custody of his or her parent . . . unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child." (§ 366.21, subd. (e).) We review the juvenile court's finding that returning the child to the parent would be detrimental for substantial evidence. (*Robert L. v. Superior Court* (1996) 45 Cal.App.4th 619, 625.)

The mother's primary argument about the risk of detriment is based on her refusal to admit past abuse, which the court concluded made future abuse more likely.

She compares this to the “confession dilemma” discussed in *Blanca P. v. Superior Court* (1996) 45 Cal.App.4th 1738 (*Blanca P.*). The key difference, however, is that in *Blanca P.*, the abuse allegations were debunked by an expert prior to the court’s findings of detriment. (*Id.* at pp. 1745-1746.) The mother again claims that the truth of Joseph’s abuse allegations is “unclear” and argues that it is unfair to expect her to admit those allegations before reunification.

Contrary to the mother’s argument, this court has already concluded there was substantial evidence to support the finding that abuse occurred. Further, the trial court found Joseph’s testimony at the instant hearing credible. The social worker testified that a high recidivism rate exists for abusers who do not admit their abuse, and believed that Joseph would suffer detriment from the mother’s refusal to take responsibility for her past actions. Joseph himself testified that although he had forgiven the mother for the abuse, he was unsure if abuse would occur in the future, and he did not feel comfortable living with her. He would not feel comfortable living with her full time, or feel safe in her care.

This is a close case, but it is not this court’s role to view this issue as if it were the trial court. The standard of review grants deference to the trial court, and given this testimony and the judge’s credibility findings, there was substantial evidence from which the court could find a substantial risk of detriment if Joseph were returned to the mother’s care. There was no error.

Adequacy of Services

During the initial stages of dependency proceedings, family preservation, which necessarily includes family reunification services, is the primary focus. (§§ 319, subd. (b), 361.5, subd. (a); *In re Elizabeth R.* (1995) 35 Cal.App.4th 1774, 1787.)

“Dependency law requires a “good faith effort” to provide reasonable reunification services ‘responding to the unique needs of each family.’ [Citation.]” (*In re Maria S.*

(2000) 82 Cal.App.4th 1032, 1039.) “The adequacy of reunification plans and the reasonableness of the SSA’s efforts are judged according to the circumstances of each case. [Citation.]” (*Robin V. v. Superior Court* (1995) 33 Cal.App.4th 1158, 1164.)

The juvenile court’s finding that reunification services were sufficient must be based on clear and convincing evidence. (*In re Monica C.* (1995) 31 Cal.App.4th 296, 306.) When that finding is challenged on appeal, we review it for substantial evidence. (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762.) We therefore view the evidence in the light most favorable to SSA and draw all reasonable inferences to uphold the court’s order. (*Mark N. v. Superior Court* (1998) 60 Cal.App.4th 996, 1010.)

The mother specifically complains of SSA’s failure to initiate joint therapy between herself and Joseph should have led the court to conclude that reasonable services were not provided. We need not belabor this point. As respondent correctly points out, even if we were to reverse the reasonable services finding, the court’s other orders would remain in place, as a permanency planning hearing was not scheduled.

Further, the services provided were more than adequate. “[T]he record should show that the supervising agency identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained *reasonable* contact with the parents during the course of the service plan, and made *reasonable* efforts to assist the parents in areas where compliance proved difficult” (*In re Riva M.* (1991) 235 Cal.App.3d 403, 414.) Substantial evidence demonstrates SSA’s efforts were more than reasonable. The mother was provided with numerous referrals, including individual therapy, at which she made some progress. The mother admits that she never made a request for joint therapy during the review period. SSA is required to be reasonable, not psychic. If the mother felt that such counseling was necessary, either she or her counsel should have approached the court or SSA with a request. (*In re Ronell A.* (1995) 44 Cal.App.4th 1352, 1365, fn. 6.)

The social worker testified that she did not initiate cojoint therapy due to the distances involved and because enough difficulties were already being encountered with the logistics of visitation, which SSA felt was the most important at that time. This was a reasonable conclusion, and as such, we find substantial evidence that reasonable services were provided.

Claims Regarding Jeremy

We begin by noting that the mother's claims regarding Jeremy are moot, due to the termination of dependency in September 2008. The mother urges us to exercise our discretion to review those claims anyway, claiming they continue to impact her rights and are of public importance, "capable of repetition, yet evading review."

Prior to the stipulation, the juvenile court had decided to keep the case open to "firm up the visitation schedule" between Jeremy and his father, the noncustodial parent. The mother argued that such cases do not permit continued dependency jurisdiction, and that the dependency case should only remain open if the conditions that led to jurisdiction are likely to recur if supervision is withdrawn.

Because the parties stipulated to terminate jurisdiction, we need not review the court's ruling. We find no reason to opine on a purely hypothetical issue based on a situation that no longer exists. Because the same issues are not present with respect to Joseph, we do not see how her rights in this case are adversely impacted. Nor do we find this to be the type of situation that typically evades review. (See *In re Yvonne W.* (2008) 165 Cal.App.4th 1394, 1404.) The mother's claims regarding Jeremy are moot.

III
DISPOSITION

The court's orders are affirmed.

MOORE, J.

WE CONCUR:

RYLAARSDAM, ACTING P. J.

BEDSWORTH, J.